**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

| | | |
|---|---|---|
| Nathan Smith | § | |
| | § | |
| v. | § | CASE NUMBER: 4:07-cv-784 |
| | § | District Judge: David Hittner |
| | § | Court Reporter(s): ERO |
| The Abandoned Vessel | § | |

**NOTICE OF THE FILING OF AN APPEAL**

In connection with this appeal, instrument # 101, filed by Joe Thrash, a copy of the notice of appeal, the order being appealed and the docket sheet are attached.

In regard to this appeal:

- The Court of Appeal $455.00 filing and docketing fees have been paid or a motion for in forma pauperis has been granted.
- DKT-13 transcript ordering instructions are attached.
- The Clerk of Court will submit to the Fifth Circuit Court of Appeals a Certificate of Non-Compliance if the appellant fails to return the transcript order form.

Michael N. Milby, Clerk

Dockets.Justia.com

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF TEXAS**
**HOUSTON DIVISION**

| | | |
|---|---|---|
| Nathan Smith | § | |
| | § | |
| | § | CASE NUMBER: 4:07-cv-784 |
| v. | § | District Judge: David Hittner |
| | § | Court Reporter(s): ERO |
| The Abandoned Vessel | § | |

## TRANSCRIPT ORDER INSTRUCTIONS TO APPELLANT

Pursuant to FRAP 10(a)(1), a transcript order form must be filed within 10 days of the filing of the notice of appeal.

Please review the instructions on the attached DKT 13 Transcript Order Form. Prepare a separate DKT 13 for each reporter from whom transcripts are ordered. All transcripts from tape recorded proceedings may be ordered on one form. Specify exact dates of proceedings to be transcribed on the appropriate reporter or tape order.

If transcript is unnecessary or already on file in the Clerk's office, prepare a DKT 13 and mark the appropriate box to indicate this information.

The appellant must contact the court reporter within 10 days of the filing of the notice of appeal to arrange for the preparation of transcripts.

Court Reporting Services
P.O. Box 61010
Houston, TX 77208

Electronic Court Reporting 713-250-5404
Court Reporters 713-250-5499

US District Court
600 E Harrison Street
Brownsville, TX 78520-7114
956-548-2500

US District Court
1300 Victoria Street, Suite 1131
Laredo, TX 78040
956-790-1733

US District Court
1133 North Shoreline Blvd, Room 208
Corpus Christi, TX 78401
361-888-3142

US District Court
1701 W. Business Hwy 83, Suite 1011
McAllen, TX 78501
956-618-8065

US District Court
PO Box 2300
Galveston, TX 77553
409-766-3530

US District Court
PO Box 1638
Victoria, TX 78476
361-788-5000

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF TEXAS**
**HOUSTON DIVISION**

| | | |
|---|---|---|
| NATHAN SMITH | § | |
| *Plaintiff,* | § | |
| | § | |
| v. | § | |
| | § | CIVIL ACTION NO. 4:07-00784 |
| THE ABANDONED VESSEL, | § | |
| *In Rem* | § | |
| | § | |

**TEXAS HISTORICAL COMMISSION'S NOTICE OF APPEAL**

TO THE HONORABLE JUDGE OF THE COURT:

The Texas Historical Commission (Hereinafter, "Commission"), hereby gives notice of its appeal to the United States Court of Appeals for the Fifth Circuit from the Order by the District Court denying the Commission's Amended Motion to Intervene, issued by the Court on February 23, 2009. The denial of a motion to intervene as a matter of right is a final, appealable order. *Heaton v. Monogram Credit Card Bank*, 297 F.3d 171 (5th Cir. 2002). The Commission sought to intervene in this case as a party-defendant.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

ANDREW WEBER
First Assistant Attorney General

DAVID A. MORALES
Deputy Attorney General for Civil Litigation

BARBARA B. DEANE
Chief, Environmental Protection and
Administrative Law Division

JOE H. THRASH
State Bar Card No. 19995500
Assistant Attorney General
Environmental Protection and
Administrative Law Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
Telephone (512) 475-4685
Fax (512) 320-0167

**ATTORNEYS FOR APPELLANT**
**TEXAS HISTORICAL COMMISSION**

## NOTICE OF ELECTRONIC FILING

I, Joe H. Thrash, Assistant Attorney General of Texas, do hereby certify that I have electronically submitted for filing a true and correct copy of the foregoing Notice of Appeal in accordance with the Electronic Case Files System of the Southern District of Texas - Houston Division, on this the 24th day of March, 2009.

JOE H. THRASH

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been delivered via Certified U. S. Mail, Return Receipt Requested, to counsel of record, on March 24, 2009, as follows:

Ronald B. Walker
Walker, Keeling & Carroll, L.L.P.
210 E. Constitution
P.O. Box 108
Victoria, Texas 77902-0108

Richard A. Schwartz
Schwartz, Junell, Greenberg & Oathout, L.L.P.
909 Fannin Street, Suite 2700
Houston, Texas 77010

JOE H. THRASH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

| | | |
|---|---|---|
| Nathan Smith, | § | |
| Plaintiffs, | § | |
| | § | |
| v. | § | Civil Action No.: H-07-784 |
| | § | |
| | § | |
| The Abandoned Vessel, | § | |
| | § | |
| Defendants. | § | |

## ORDER

Pending before the Court is Texas Historical Commission's Amended Motion to Intervene (Inst. # 95). Having considered the motions, submissions and the applicable law, the Court determines that the motion should be denied. Accordingly, the Court hereby

Orders that the Texas Historical Commission's Amended Motion to Intervene (Inst. # 95) is DENIED.

Signed at Houston, TX on the 23 day of February, 2009.

[signature]

DAVID HITTNER
United States District Judge

APPEAL

# U.S. District Court
# SOUTHERN DISTRICT OF TEXAS (Houston)
# CIVIL DOCKET FOR CASE #: 4:07-cv-00784
# Internal Use Only

Smith v. The Abandoned Vessel
Assigned to: Judge David Hittner
Cause: 28:1333 Admiralty

Date Filed: 03/06/2007
Jury Demand: None
Nature of Suit: 340 Marine
Jurisdiction: Federal Question

**Plaintiff**

**Nathan Smith** represented by

**Richard Austin Schwartz**
Schwartz Junell et al
909 Fannin
Ste 2700
Houston , TX 77010
713-752-0017
Fax: 713-752-0327 fax
Email: dschwartz@schwartz-junell.com
*LEAD ATTORNEY*
*ATTORNEY TO BE NOTICED*

**Jay Alan McKendree**
Acosta Shrode and Soule
11200 Richmond
Ste 490
Houston , TX 77082
281-496-3140
Fax: 281-752-6329
Email: jaymckendree@sbcglobal.net
*TERMINATED: 09/24/2007*
*ATTORNEY TO BE NOTICED*

**Wilbourn Thomas Woodward**
Killeen and Stern
8 Greenway Plaza
Ste 614
Houston , TX 77046
713-626-5100
Email: wwoodward@killeen-law.com
*TERMINATED: 09/19/2007*
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**The Abandoned Vessel**

**Defendant**

**Killeen & Stern, PC**

**Defendant**

| | | |
|---|---|---|
| **Executor Morgan Dunn O'Connor** | represented by | **Ronald B Walker**<br>Walker Keeling et al<br>PO Box 108<br>Victoria , TX 77902-0108<br>361-576-6800<br>Fax: 361-576-6196<br>Email: rwalker@wkcfirm.com<br>*LEAD ATTORNEY*<br>*ATTORNEY TO BE NOTICED* |

**Intervenor**

| | | |
|---|---|---|
| **Marie Sorenson**<br>*TERMINATED: 05/12/2008* | represented by | **Ronald B Walker**<br>(See above for address)<br>*TERMINATED: 05/12/2008*<br>*LEAD ATTORNEY*<br>*ATTORNEY TO BE NOTICED* |

**Intervenor**

| | | |
|---|---|---|
| **Morgan Dunn O'Connor**<br>*Executor of the Estate of Marie O'Connor Sorenson* | represented by | **Ronald B Walker**<br>(See above for address)<br>*LEAD ATTORNEY*<br>*ATTORNEY TO BE NOTICED* |

**Intervenor**

| | | |
|---|---|---|
| **Texas Historical Commission** | represented by | **Joe H Thrash**<br>Office of the Attorney General<br>300 W 15th Street<br>Ste 1206<br>Austin , TX 78701<br>512-475-4685<br>Fax: 512-320-0167<br>Email: joe.thrash@oag.state.tx.us<br>*LEAD ATTORNEY*<br>*ATTORNEY TO BE NOTICED* |

| Date Filed | # | Docket Text |
|---|---|---|
| 03/06/2007 | 1 | SEALED DOCUMENT (McKendree, Jay) Modified on 11/28/2007 (ealexander, ). (Entered: 03/06/2007) |
| 03/07/2007 | 2 | ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 5/3/2007 at 02:00 PM in Courtroom 702 before Magistrate Judge Stephen Smith.( Signed by Judge David Hittner ) Parties notified.(mmapps, ) (Entered: 03/07/2007) |
| 03/22/2007 | 3 | CERTIFICATE OF INTERESTED PARTIES, filed.(McKendree, Jay) (Entered: |

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|---|---|---|
| | | 03/22/2007) |
| 05/02/2007 | 4 | SEALED DOCUMENT (McKendree, Jay) Modified on 11/28/2007 (ealexander, ). (Entered: 05/02/2007) |
| 05/03/2007 | 5 | Minute Entry for proceedings held before Judge Stephen Wm Smith. SCHEDULING CONFERENCE held on 5/3/2007. No scheduling order issued. Pending motion for entry of order 4 to determine further action in this case. Appearances: Jay Alan McKendree. (ERO:C. Peebles), filed. (jmarchand) (Entered: 05/03/2007) |
| 05/04/2007 | 6 | SEALED Order.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) Modified on 11/28/2007 (ealexander, ). (Entered: 05/07/2007) |
| 05/23/2007 | 7 | Unopposed MOTION for Extension of Time Publication by Nathan Smith, filed. Motion Docket Date 6/12/2007. (Attachments: # 1 Proposed Order)(McKendree, Jay) (Entered: 05/23/2007) |
| 05/24/2007 | 8 | ORDER granting 7 Motion for Extension of Time.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 05/25/2007) |
| 06/08/2007 | 9 | ORDER Initial Conference set for 9/12/2007 at 10:00 AM in Courtroom 702 before Magistrate Judge Stephen Smith.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 06/10/2007) |
| 09/05/2007 | 10 | Unopposed MOTION for *Entry of* Judgment by Nathan Smith, filed. Motion Docket Date 9/25/2007. (Attachments: # 1 Exhibit A, B, C, and D)(Woodward, Wilbourn) (Entered: 09/05/2007) |
| 09/07/2007 | 11 | SEALED ORDER.( Signed by Judge David Hittner ) Parties notified. (ealexander, ) Modified on 11/28/2007 (ealexander, ). (Entered: 09/07/2007) |
| 09/11/2007 | 12 | SEALED DOCUMENT. (Walker, Ronald) Modified on 9/13/2007 (ltien, ). Modified on 11/28/2007 (ealexander, ). (Entered: 09/11/2007) |
| 09/11/2007 | 13 | SEALED DOCUMENT. (Walker, Ronald) Modified on 9/13/2007 (ltien, ). Modified on 11/28/2007 (ealexander, ). (Entered: 09/11/2007) |
| 09/14/2007 | 14 | ORDER granting and denying in part 12 Opposed MOTION for New Trial, 13 Opposed MOTION to Stay, Case reopened on September 14, 2007. This case is set for a Rule 16 Scheduling Conference on October 25, 2007 at 2:00 p.m. before Magistrate Judge Stephen Wm Smith.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 09/17/2007) |
| 09/14/2007 | | ***Set/Reset Deadlines/Hearings: Initial Conference set for 10/25/2007 at 02:00 PM in Courtroom 702 before Magistrate Judge Stephen Smith (ealexander, ) (Entered: 09/17/2007) |
| 09/18/2007 | 15 | MOTION for Robert J. Killeen, Jr. to Withdraw as Attorney by Nathan Smith, filed. Motion Docket Date 10/9/2007. (Attachments: # 1 Proposed Order Granting Motion to Withdraw as Counsel)(Woodward, Wilbourn) (Entered: 09/18/2007) |
| 09/19/2007 | 16 | ORDER granting 15 Motion to Withdraw as Attorney.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 09/20/2007) |
| 09/23/2007 | 17 | MOTION for Jay A. McKendree to Withdraw as Attorney by Nathan Smith, filed. Motion Docket Date 10/15/2007. (Attachments: # 1 Proposed Order) (McKendree, Jay) (Entered: 09/23/2007) |

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| 09/24/2007 | 18 | ORDER granting 17 Motion to Withdraw as Attorney.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 09/25/2007) |
| 09/28/2007 | 19 | ORDER Clarifying Order of September 14, 2007.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 09/28/2007) |
| 10/18/2007 | 20 | ANSWER to 1 Complaint by Marie Sorenson, filed.(Walker, Ronald) (Entered: 10/18/2007) |
| 10/18/2007 | 21 | Opposed MOTION to Dismiss 1 Complaint by Marie Sorenson, filed. Motion Docket Date 11/7/2007. (Attachments: # 1 Proposed Order Order Granting Dismissal For Failure To State A Claim)(Walker, Ronald) (Entered: 10/18/2007) |
| 10/25/2007 | 22 | CERTIFICATE OF INTERESTED PARTIES by Intervenor Marie Sorenson, filed.(Walker, Ronald) (Entered: 10/25/2007) |
| 10/25/2007 | 23 | Minute Entry for proceedings held before Judge Stephen Wm Smith. SCHEDULING CONFERENCE held on 10/25/2007. Scheduling order issued. Appearances:Terry Carroll for Ronald Walker, Richard Austin Schwartz.(ERO:P. Crawford), filed.(jmarchand) (Entered: 10/25/2007) |
| 10/25/2007 | 24 | SCHEDULING ORDER: Trial Term: November/December 2008. ETT: 3 days. Bench Trial. Amended Pleadings due by 2/29/2008. Joinder of Parties due by 1/31/2008. Pltf Expert Witness List due by 2/29/2008. Deft Expert Witness List due by 3/31/2008. Discovery due by 7/1/2008. Dispositive Motion Filing due by 7/31/2008. Non-Dispositive Motion Filing due by 7/31/2008. Joint Pretrial Order due by 10/30/2008. ( Signed by Judge Stephen Wm Smith ) Parties notified. (jmarchand) (Entered: 10/25/2007) |
| 11/07/2007 | 25 | STIPULATION re: to Extend Submission Date on Intervenor Sorenson's Motion to Dismiss by Nathan Smith, filed.(Schwartz, Richard) (Entered: 11/07/2007) |
| 11/08/2007 | 26 | Stipulation and Order to Extend Submission Date on Intervenor Sorenson's Motion to Dismiss to November 21, 2007.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 11/09/2007) |
| 11/20/2007 | 27 | Unopposed MOTION to Seal Documents by Nathan Smith, filed. Motion Docket Date 12/10/2007. (Schwartz, Richard) (Entered: 11/20/2007) |
| 11/20/2007 | 28 | PROPOSED ORDER re: 27 Unopposed MOTION to Seal Documents, filed. (Schwartz, Richard) (Entered: 11/20/2007) |
| 11/21/2007 | 29 | RESPONSE to 21 Opposed MOTION to Dismiss 1 Complaint, filed by Nathan Smith. (Schwartz, Richard) (Entered: 11/21/2007) |
| 11/21/2007 | 30 | EXHIBITS re: 29 Response to Motion by Nathan Smith, filed.(Schwartz, Richard) (Entered: 11/21/2007) |
| 11/21/2007 | 31 | PROPOSED ORDER re: 29 Response to Motion, filed.(Schwartz, Richard) (Entered: 11/21/2007) |
| 11/27/2007 | 32 | REPLY in Support of 21 Opposed MOTION to Dismiss 1 Complaint, filed by Marie Sorenson. (Walker, Ronald) (Entered: 11/27/2007) |
| 11/27/2007 | 33 | ORDER granting 27 Motion to Seal Documents.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 11/28/2007) |
| 11/30/2007 | 34 | Nathan Smith's Sur-Reply to Intevenor Sorenson's Reply Regarding Sorenson's |

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| | | 21 MOTION to Dismiss, by Nathan Smith, filed.(Schwartz, Richard) Linked to #21 on 12/5/2007 (ltien, ). (Entered: 11/30/2007) |
| 01/31/2008 | 35 | MOTION for Leave to File First Amended Original Complaint by Nathan Smith, filed. Motion Docket Date 2/20/2008. (Attachments: # 1 Complaint First Amended# 2 Proposed Order)(Schwartz, Richard) (Entered: 01/31/2008) |
| 02/22/2008 | 36 | ORDER granting 35 Motion for Leave to File First Amended Complaint.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 02/25/2008) |
| 02/22/2008 | 37 | First Amended Original Complaint against Killeen & Stern, PC, Marie Sorenson, The Abandoned Vessel filed by Nathan Smith.(ealexander, ) (Entered: 02/25/2008) |
| 02/25/2008 | 38 | ORDER denying 21 Motion to Dismiss.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 02/25/2008) |
| 04/21/2008 | 39 | STIPULATION re: Parties' Expert Report Deadline by Nathan Smith, filed. (Schwartz, Richard) (Entered: 04/21/2008) |
| 04/22/2008 | 40 | ORDER to Extend the Parites' Expert Report Deadline. Plaintiff's expert report deadline to reset to May 30, 2008. Intervenor's expert report deadline is moved to June 30, 2008.( Signed by Judge David Hittner ) Parties notified.(ealexander, ) (Entered: 04/22/2008) |
| 04/23/2008 | | Summons Issued as to Killeen & Stern, PC, filed.(espencer, ) (Entered: 04/23/2008) |
| 05/07/2008 | 41 | Suggestion of Death and Unopposed Motion to Substitute Proper Party Morgan Dunn O'Connor, Executor of the Estate of Marie O'Connor Sorenson, Intervenor, in place of Marie Sorenson. (Attachments: # 1 Proposed Order)(Walker, Ronald) (Entered: 05/07/2008) |
| 05/09/2008 | 42 | Agreed PROPOSED ORDER *Protective*, filed.(Schwartz, Richard) (Entered: 05/09/2008) |
| 05/12/2008 | 43 | ORDER granting 41 Motion to Substitute Party. Morgan Dunn O'Connor, Executor of the Estate of Marie O'Connor Sorenson, is substituted as the Interenor in this matter added..(Signed by Judge David Hittner) Parties notified. (ealexander, ) (Entered: 05/13/2008) |
| 05/12/2008 | 44 | AGREED PROTECTIVE ORDER.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 05/13/2008) |
| 05/30/2008 | 45 | STIPULATION re: Extending the Parties' Expert Report Deadline by Nathan Smith, filed.(Schwartz, Richard) (Entered: 05/30/2008) |
| 06/03/2008 | 46 | ORDER that Plaintiff's expert report dealine is moved to June 30, 2008 and Intervenor's expert report deadline is moved to July 30, 2008.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 06/04/2008) |
| 07/31/2008 | 47 | Sealed Event, filed. (With attachments) (Entered: 07/31/2008) |
| 08/21/2008 | 48 | RESPONSE to 47 Sealed Event, filed by Morgan Dunn O'Connor. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C, # 4 Exhibit Exhibit D, # 5 Exhibit Exhibit E, # 6 Proposed Order)(Walker, Ronald) Modified on 8/25/2008 (ealexander, ). This docket entry is sealed per order dated 8/22/08 (Entered: 08/21/2008) |

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| 08/21/2008 | 49 | OBJECTIONS *to Plaintiff's Summary Judgment Evidence*, filed by Morgan Dunn O'Connor. (Walker, Ronald) Modified on 8/25/2008 (ealexander, ). This docket entry is sealed per order dated 8/22/08 (Entered: 08/21/2008) |
| 08/21/2008 | 50 | Agreed MOTION to Seal Docket Numbers 048 and 049 by Morgan Dunn O'Connor, filed. Motion Docket Date 9/10/2008. (Attachments: # 1 Proposed Order)(Walker, Ronald) (Entered: 08/21/2008) |
| 08/22/2008 | 51 | ORDER granting 50 Agreed Motion to Seal.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 08/25/2008) |
| 09/10/2008 | 52 | Sealed Event, filed. (With attachments) (Entered: 09/10/2008) |
| 09/10/2008 | 53 | Sealed Event, filed. (Entered: 09/10/2008) |
| 09/10/2008 | 54 | Sealed Event, filed. (Entered: 09/10/2008) |
| 09/22/2008 | 55 | ORDER denying 47 Sealed Motion. Further Plaintiff's Motion for Partial Summary Judgment and Renewal of her Motion to Dismiss (Inst. # 48) is denied. (Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 09/23/2008) |
| 10/14/2008 | 56 | SCHEDULING ORDER. ETT: 3 days. Bench Trial. Pretrial Conference set for 10/22/2008 at 09:45 AM in Courtroom 8A before Judge David Hittner.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 10/15/2008) |
| 10/14/2008 | 57 | ORDER that the parties are to exchange all trial exhibits on or before October 30, 2008.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 10/15/2008) |
| 10/22/2008 | 58 | Minute Entry for proceedings held before Judge David Hittner. Final PRETRIAL CONFERENCE held on 10/22/2008. Written order to issue. Appearances: Adrian Green, Ronald B. Walker, Terry Carroll(Court Reporter: Gayle Dye), filed. (ealexander, ) (Entered: 10/23/2008) |
| 10/22/2008 | 59 | SCHEDULING ORDER. ETT: 2-3 days. Bench. Joint Pretrial Order due by 11/7/2008 Bench Trial set for 12/29/2008 at 10:00 AM in Courtroom 8A before Judge David Hittner.(Signed by Judge David Hittner) Parties notified. (ealexander, ) (Entered: 10/23/2008) |
| 11/10/2008 | 60 | Sealed Event, filed. (With attachments) (Entered: 11/10/2008) |
| 11/13/2008 | 61 | Sealed Event, filed. (With attachments) (Entered: 11/13/2008) |
| 11/14/2008 | 62 | ORDER granting 61 Sealed Motion.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 11/17/2008) |
| 11/18/2008 | 63 | TRANSCRIPT re: Hearing held on 10-22-2008 before Judge David Hittner. Court Reporter/Transcriber Dye. Release of Transcript Restriction set for 2/17/2009., filed. (gdye, ) (Entered: 11/18/2008) |
| 11/19/2008 | 64 | Notice of Filing of Official Transcript as to 63 Transcript. Party notified, filed. (dclark, ) (Entered: 11/19/2008) |
| 12/11/2008 | 65 | Sealed Event, filed. (With attachments) (Entered: 12/11/2008) |
| 12/12/2008 | 66 | ORDER ; Motion-related deadline set re: 65 Sealed Event, ORDER Setting Hearing on Motion 65 Sealed Event :( Motion Hearing set for 12/29/2008 at |

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| | | 10:00 AM in Courtroom 8A before Judge David Hittner).(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 12/12/2008) |
| 12/17/2008 | 67 | Sealed Event, filed. (With attachments) (Entered: 12/17/2008) |
| 12/17/2008 | 68 | Sealed Event, filed. (With attachments) (Entered: 12/17/2008) |
| 12/18/2008 | 69 | RESPONSE *NOT OPPOSING PLAINTIFF'S PROPOSED DEPOSITION AND OPPOSING ANY CONTINUANCE*, filed by Morgan Dunn O'Connor. (Walker, Ronald) (Entered: 12/18/2008) |
| 12/18/2008 | 70 | Sealed Event, filed. (Entered: 12/18/2008) |
| 12/18/2008 | 71 | ORDER granting 67 Motion for Expedited Consideration of Plaintiff's Motion for Leave to take the Deposition of a Newly Discovered Witness and denying the motion for continuance. Plaintiff is granted leave to take the deposition of Garrett Engelking on December 19, 2008.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 12/18/2008) |
| 12/22/2008 | 72 | Sealed Event, filed. (Entered: 12/22/2008) |
| 12/23/2008 | 73 | Sealed Event, filed. (Entered: 12/23/2008) |
| 12/23/2008 | 74 | Sealed Event, filed. (With attachments) (Entered: 12/23/2008) |
| 12/24/2008 | 75 | Sealed Event, filed. (With attachments) (Entered: 12/24/2008) |
| 12/24/2008 | 76 | Sealed Event, filed. (With attachments) (Entered: 12/24/2008) |
| 12/29/2008 | 77 | ORDER granting 65 Sealed Motion.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 12/29/2008) |
| 12/29/2008 | 78 | OBJECTION to Presentation of Evidence at Trial by Intervenor, filed by Nathan Smith. (ealexander, ) (Entered: 12/29/2008) |
| 12/29/2008 | 79 | Minute Entry for proceedings held before Judge David Hittner. First day of BENCH TRIAL held on 12/29/2008 and continued to December 30, 2008 at 10:00 a.m. Testimony taken. The transcript of this proceeding is SEALED. Appearances: Richard Terry Carroll, Adrian Greene, Austin Schwartz, Ronald B Walker.(Court Reporter: Anita Manley), filed.(ealexander, ) (Entered: 12/30/2008) |
| 12/29/2008 | 80 | ORDER granting 75 Sealed Motion.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 12/30/2008) |
| 12/29/2008 | 81 | ORDER granting 76 Sealed Motion.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 12/30/2008) |
| 12/30/2008 | 82 | Minute Entry for proceedings held before Judge David Hittner. Second day of BENCH TRIAL held on 12/30/2008. Plaintiff rests. Defendant's Motion for Directed Verdict heard and denied. Defendant presents case and rest. Findings of Fact and Conclusions of Law due to be filed on March 2, 2009. (The transcript of this day of trial is sealed.) Appearances: Terry Carroll, Adrian Greene, Richard Austin Schwartz, Ronald B Walker.(Court Reporter: Bruce Slavin), filed. (ealexander, ) Modified on 12/31/2008 (ealexander, ). (Entered: 12/31/2008) |
| 12/30/2008 | 83 | Plaintiff's Deposition Excerpts of Marie Pattillo dated December 19, 2008, filed. (ealexander, ) (Entered: 12/31/2008) |

| | | |
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| 12/30/2008 | 84 | Plaintiff's Deposition Excerpts of Garrett Engelking dated December 19, 2008, filed. (ealexander, ) (Entered: 12/31/2008) |
| 12/30/2008 | 85 | Exhibit List by Nathan Smith, filed.(ealexander, ) (Entered: 12/31/2008) |
| 12/30/2008 | 86 | Exhibit List by Morgan Dunn O'Connor, Marie Sorenson, filed.(ealexander, ) (Entered: 12/31/2008) |
| 01/15/2009 | 87 | Transcript (Sealed), filed. (amanley, ) (Entered: 01/15/2009) |
| 01/15/2009 | 88 | Transcript (Sealed), filed. (bslavin, ) (Entered: 01/15/2009) |
| 02/03/2009 | 89 | MOTION for Joe H. Thrash to Appear Pro Hac Vice by Texas Historical Commission, filed. Motion Docket Date 2/23/2009. (ealexander, ) (Entered: 02/03/2009) |
| 02/03/2009 | 90 | ANSWER to 37 Amended Complaint/Counterclaim/Crossclaim etc. by Texas Historical Commission, filed.(ealexander, ) (Entered: 02/03/2009) |
| 02/03/2009 | 91 | MOTION to Intervene by Texas Historical Commission, filed. Motion Docket Date 2/23/2009. (ealexander, ) (Entered: 02/03/2009) |
| 02/03/2009 | 92 | MOTION to Dismiss or for Judgment by Texas Historical Commission, filed. Motion Docket Date 2/23/2009. (ealexander, ) (Entered: 02/03/2009) |
| 02/04/2009 | 93 | ORDER granting 89 Motion to Appear Pro Hac Vice on behalf of Joe H. Thrash. (Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 02/05/2009) |
| 02/19/2009 | 94 | ORDER denying as moot 91 Motion to Intervene; denying as moot 92 Motion to Dismiss.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 02/20/2009) |
| 02/23/2009 | 95 | ORDER that the Texas Historical Commission's Amended Motion to Intervene is denied.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 02/25/2009) |
| 03/02/2009 | 96 | Sealed Event, filed. (Entered: 03/02/2009) |
| 03/02/2009 | 97 | Sealed Event, filed. (Entered: 03/02/2009) |
| 03/16/2009 | 98 | Sealed Event, filed. (With attachments) (Entered: 03/16/2009) |
| 03/17/2009 | 99 | Sealed Event, filed. (With attachments) (Entered: 03/17/2009) |
| 03/20/2009 | 100 | ORDER denying 98 Sealed Motion.(Signed by Judge David Hittner) Parties notified.(ealexander, ) (Entered: 03/24/2009) |
| 03/24/2009 | 101 | NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: 95 Order by Texas Historical Commission (Filing fee $ 455, receipt number 0541000000004849631), filed.(Thrash, Joe) (Entered: 03/24/2009) |